

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

MODAVOX, INC.

Plaintiff,

V.

TACODA, INC.

Defendant.

CIVIL ACTION NO. 07-CV-7088 (CM)(GWG)

JUDGE COLLEEN McMAHON

ECF Case

**DECLARATION OF PAUL R. GUPTA IN SUPPORT OF  
DEFENDANT’S OPENING BRIEF ON CLAIM CONSTRUCTION**

I, Paul R. Gupta, declare:

1. I am a member of the bar of the State of New York, and a partner of Orrick, Herrington & Sutcliffe LLP, counsel of record for defendant TACODA, Inc. (“Tacoda”). I make this declaration of my own personal knowledge and, if called as a witness, I could and would testify competently to the truth of the matters set forth herein.

2. Attached hereto as Exhibit A is a true and correct copy of United States Patent Number 6,594,691.

3. Attached hereto as Exhibit B is a true and correct copy of United States Patent Number 7,269,636.

4. Attached hereto as Exhibit C is a true and correct copy of the prosecution history of United States Patent Number 6,594,691.

5. Attached hereto as Exhibit D is a true and correct copy of the prosecution history of United States Patent Number 7,269,636.

6. Attached hereto as Exhibit E is a true and correct copy of relevant excerpts from the prosecution history of United States Patent Number 6,594,691.

7. Attached hereto as Exhibit F is a true and correct copy of relevant excerpts from the prosecution history of United States Patent Number 7,269,636.

8. Attached hereto as Exhibit G is a true and correct copy of a joint claim construction chart prepared by plaintiff and defendant.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on December 16, 2008 in New York, New York.

/s/ Paul R. Gupta

Paul R. Gupta